

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4386 of 2024

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Amit Kumar Singh, Son of Sri Dhurandhar Prasad Singh, Resident of Village-
Rahul Nagar, Brahmpura, M.I.T., P.S.- Brahmpura, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Bihar, Patna.
2. The Engineer-in-Chief Cum Additional Commissioner-cum- Special Secretary, Building Construction Department, Bihar.
3. The Superintending Engineer, Building Construction Department, Building Division, Muzaffarpur.
4. The Executive Engineer, Building Construction Department, Building Division, Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Raju Kumar, Advocate
For the Respondent/s	:	Mr. P.K. Verma, AAG-3
		Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 12-03-2024

Heard the parties.

2. The petitioner, who is a registered contractor and proprietor of a firm has filed the present writ petition, seeking quashing of the order as contained in Letter No. 406(ॠ), Patna, dated 11.01.2024 passed by the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Bihar, Patna, whereby the petitioner's registration as contractor has been suspended for a period of ten



years under Rule 11 (vii) of the Bihar Contractors Registration Rules, 2007 (for short “the Rules, 2007”).

3. This is the second round of litigation, as earlier the petitioner on being aggrieved by the order as contained in Memo No. 02/2023 6152 (m) dated 28.07.2023, effecting the suspension of his licence for a period of ten years, had filed C.W.J.C. No. 12326 of 2023 and this Court having found the show-cause issued by the incompetent authority, apart from the order of suspension being non-speaking as the objection for explanation to the show-cause notice was not duly considered vide its order dated 13.10.2023, has been pleased to set aside the order dated 28.07.2023, reserving liberty to the concerned/competent authority to proceed in accordance with law. The earlier order of this Court dated 13.10.2023 has been produced as Annexure-10 to the writ petition.

4. Learned counsel for the petitioner thus contended that in the light of the order of this Court, the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Bihar, Patna, vide Letter No. 9192(ॠ), Patna, dated 09.11.2023, issued a fresh show-cause notice to the petitioner, directing him to submit an explanation as to why an action should not be taken against him under Rule



11 (vii) of the Rules, 2007 for giving a false information in connection with EMD amount, tender fee and processing fee. In response to the aforesaid show-cause, the petitioner submitted a detailed explanation stating therein that in pursuance of Tender Invitation No. 22/BCD/Sitamarhi/2022-23, he had already submitted *chalan* on the last due date, but due to technical glitches, it could not be deposited and this fact has already been communicated to the authority concerned immediately. Despite, the aforesaid explanation the impugned order came to be passed by respondent no.2, which is impugned herein.

5. Adverting to the aforesaid facts, learned counsel for the petitioner further submitted that the petitioner has not violated any relevant Rules of 2007, thus effecting the punishment of suspension of licence for such a long period of ten years, amounts to civil death of the petitioner's business and, moreover, the reliance of the respondent(s) based upon the information given by the Bank is baseless, as the Punjab National Bank itself had issued a letter dated 20.04.2023 addressed to the respondent no.2, that on account of technical glitches, the *chalan* could not be deposited on 16.11.2022.

6. After carefully going through, the impugned order of suspension of petitioner's registration as contractor, this



Court finds that apart from the charges of giving false information with respect to tender fee and processing fee of EMD, the petitioner was also served with another show-cause notice as contained in 9188(५), dated 09.11.2023 with a charge of using abusive and unparliamentary language, apart from indecent behaviour, threatening to kill and attempting obstruction of discharge of duty of a government official, leading to lodging of the FIR. There is no whisper in the writ petition in this regard. Further, the impugned order clearly suggests that the explanation of the petitioner to the effect that on account of technical fault, the payment could not be made, has not been corroborated by the Bank official, who had informed that the *chalan* was found to be not payable. Thus, in the aforesaid premise, the explanation of the petitioner was rejected and he was found to be guilty for the same and, accordingly, the impugned order came to be passed inflicting suspension of the registration of the petitioner as contractor for a period of ten years w.e.f. the date of the issuance of the order.

7. This Court having considered the impugned order in exercise of the power of judicial review, does not find any error, as the same has been passed after due consideration of the petitioner's explanation, in terms of the provisions of the NIT



qua the Rules, 2007. However, insofar as the period of suspension, it is appropriate that the authority consider whether the suspension for ten years is proportional to the gravity of the offence alleged.

8. In this view of the matter, this Court, *prima facie*, is of the opinion, that the period of suspension of the registration of the petitioner as contractor should be reviewed afresh, if the petitioner files a fresh representation for the same, when the suspension of registration has the effect of preventing a person from privilege and advantage of entering into any business, affecting his livelihood.

9. Accordingly, the present writ petition stands disposed off with the liberty aforesaid.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18-03-2024
Transmission Date	

